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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| TRISH MCEVOY, LTD. | : | |
| | : | |
| Plaintiff, | : | |
| | : | 16-CV-7549 (VEC) |
| -against- | : | |
| | : | <u>ORDER</u> |
| TOO FACED COSMETICS, LLC, | : | |
| | : | |
| Defendant. | : | |
| -----X | | |

VALERIE CAPRONI, United States District Judge:

By letter dated October 31, 2016 (Dkt. 8), the parties reported to the Court that they have reached a settlement of this matter.

Accordingly, it is hereby ORDERED that this action will be dismissed without costs (including attorneys' fees) to either party on **December 1, 2016** unless before that date one or more of the parties files a letter with the Court requesting that the action not be dismissed and stating the reasons why the Court should retain jurisdiction over this action in light of the parties' settlement. To be clear, any request that the action not be dismissed **must** be filed **on or before December 1, 2016**; any request filed thereafter may be denied solely on that basis.

If the parties wish for the Court to retain jurisdiction over their settlement agreement, not later than **November 21, 2016**, they must submit the settlement agreement to the Court in accordance with Rule 5.A of the Court's Individual Practices, along with a request that the Court issue an order expressly retaining jurisdiction to enforce their settlement agreement. *See Hendrickson v. United States*, 791 F.3d 354 (2d Cir. 2015).

In response to Plaintiff's failure to appear at the October 28, 2016 conference and the Court's order to show cause why this action should not be dismissed for Plaintiff's failure to

appear (Dkt. 7), Plaintiff's counsel claims he did not receive the Court's September 29, 2016 Order (Dkt. 6) scheduling the October 28 conference. Given, however, that the Court's September 29, 2016 Order was issued via ECF, the only reason Plaintiff's counsel did not receive the Order is because counsel did not stay abreast of the ECF alerts and the docket for this matter, which is counsel's responsibility. Nevertheless, given that the parties have settled this matter, no further action is required in response to the Court's order to show cause.

SO ORDERED.

Date: November 1, 2016
New York, NY


VALERIE CAPRONI
United States District Judge